

**Building the New Reclaimed Water WAC
Proposed Draft Rule - work in progress (WIP)
for Rule Advisory Committee use only
Wednesday, July 22, 2009**

DOH comments – ~~DL~~DL&-CR 7/24/09

Part III PERMITS - version 1.2 Section 290

Intent of Section 290

Specify the terms and conditions that must be included in all reclaimed water permits.

Note: This is a very important section as it determines the content of the regulatory permits. The standardized permit conditions are written directly from this section.

WAC 173-219- 290 Permit terms and conditions

1. Any Each permit issued by the lead agency must specify the terms and conditions necessary to ensure that the Permittee maintains control over and is responsible for all facilities and activities inherent to the generation of reclaimed water including the protection of public health and the environment.
2. Each permit must state that all reclaimed water generation, distribution and use authorized by the permit must be consistent with the terms and conditions of the permit.
3. Each permit must require that any facility expansions, production increases, or process modifications that would cause reclaimed water quality, water quantity or use limitations in the permit to be exceeded or beyond ~~which was~~ the levels reported in the application, must be reported to the lead agency by submission of a new application or supplement thereto.
4. ~~The~~ Each permit must include, but is not limited to, conditions that:
 - (a.) Specify the location, rate and use of reclaimed water generated by the Permittee.

- (b.) Ensure adequate and reliable treatment that, at all times, produces reclaimed water quality meeting the standards established in Part V and VI of this rule as appropriate for the permitted uses.
- (c.) Control impacts from ~~industrial and toxic discharges~~ variations in the wastewater influent that may affect reclaimed water quality through either a delegated pre-treatment ~~program~~ with the department of Ecology or by assuring that all applicable discharges to the wastewater collection system(s) and treatment plant(s) that supplies influent have permits issued in accordance with Ch 90.48 RCW, WAC 173-220-150 and sections 204(b), 307, and 308 of the FWPCA.
- Ecology requests additional input on subsection (c) regarding the use of the terms "industrial and toxic" discharges per stakeholder comments received July, 2009.*
- (d.) Protect public health throughout the distribution and use of reclaimed water.
- (e.) Prevent or control the introduction of pollutants into waters of the state.
- (f.) Require any person who generates reclaimed water for distribution, storage or use by others to ensure through written enforceable contracts or ordinances that all applicable requirements are also met by the users.
- (g.) Require proper facility operation and maintenance necessary to achieve compliance with the permit.
- (h.) ~~Provide~~ Require a sufficient number of qualified personnel to operate the facility effectively including an operator, certified under chapter 173-230 WAC¹, in responsible charge of the day to day operation of the facility.
- (i.) Establish a ~~detailed~~ self-monitoring and testing schedule including sampling type, method for determining compliance and frequency of monitoring that verify that the treatment process is functioning correctly and that the facility is achieving the required reclaimed water quality. Specified monitoring frequencies may consider the quantity and variability of the reclaimed water, the treatment method, past compliance, significance of pollutants, and cost of monitoring.
- (j.) Require the use of laboratories accredited under Ch 173-50 WAC for the submission of analytical data required for compliance with the permit.
- (k.) Provide minimum requirements for reporting routine compliance monitoring, preventative maintenance and noncompliance events. Unless the permit specifies otherwise, reports shall be filed monthly with the lead agency ~~and a copy sent to the non-lead agency.~~

Comment [DEL1]: Putting this responsibility on the RW plant seems a bit misplaced – unless there is no prior WWTP. Asking RW plant to make sure their "supplier" conforms is more reasonable.

Comment [DEL2]: I suggest avoiding it by using the language substituted above.

Comment [DEL3]: Here's an area that we might reduce duplication. Let the permit specify both agencies only if we agree there's a need – leave that out of the rule and make that something "above" the minimum reqmts on a case by case basis.

¹ Statutory authority Ch 78.95 RCW.

~~(k.)~~ Ecology requests input on (k) regarding the need to send a copy of the monthly compliance report to the nonlead agency for all permits.

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- (l.) Allow entry to inspect or investigate compliance with permit requirements. ~~The departments or their Aa~~ authorized representatives of the departments may

- i. Enter at all reasonable times in or upon any property, public or private in which reclaimed water is generated, distributed, used, or discharged subject to any access restrictions due to the nature of the project.
- ii. Enter upon premises where records are kept, have access to and copy at reasonable cost, any records required under terms and conditions of the permit.
- iii. Inspect any construction, monitoring equipment or method required in the permit.
- iv. Sample any reclaimed water or discharge of ~~pollutants~~ untreated or partially treated water.

- (m.) Require the permittee to promptly respond to noncompliance events including:

- i. Immediate action to stop, contain, and clean up unauthorized discharges or otherwise stop the violation, and correct the problem.
- ii. Immediate notification of the lead agency, ~~and the non-lead agency if required by the permit,~~ of the failure to comply.
- iii. Submission of a detailed written report to the lead agency within thirty days, unless requested earlier, describing the ~~nature of the~~ violation, corrective action taken and/or planned, steps to be taken to prevent a recurrence, and any other pertinent information related to the event.

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Part III PERMITS - version 1.2 Section 205(4)

Note: The RAC has already commented regarding the need to clarify terms – public entity, non-public entity, and private utility. These remain to be address and the text has not been modified in this discussion draft.

Intent of section 205 (4) is to establish the process and requirements to address the capacity of a private utility to qualify for a permit.

Ecology requesta input regarding the proposed process and requirements.

WAC 173-219- 205 Eligibility to apply for a permit - Permittee.

Comment [DEL4]: I changed the language below to agree with this title – eligible to apply. I like that concept, rather than leaving it to not issuing a permit.

- 4 ~~Before issuing a permit, a~~ non-public/private utility entity must submit adequate information to the lead agency to determine if the entity has the technical, managerial, administrative, operational and financial capacity to qualify ~~for to apply for~~issuance of a permit. The lead agency may require that changes be made, such as managerial or financial changes, before ~~issuance of the entity id eligible to apply for~~ a permit. Information that may be required includes:

Comment [CLR5]: Consistent with the statute.

Comment [DEL6]: The required information sounds a lot like what might be in a Reclaimed Water Plan.

- (a) A brief, non-technical description of the proposed Reclaimed Water System and its customers, including major components, treatment ~~type~~process(es), ~~volume~~ capacity at startup and maximum treatment capacity, beneficial uses to which the reclaimed water will be put.
- (b) A description of the administrative, managerial, operational, and technical capabilities of the entity that includes:
 - i. Type of ownership;
 - ii. Responsible managerial officials, such as board members, sole proprietors and /or corporate officers, and the individual(s) in charge of long-term capital planning and capital repair and maintenance and a brief description of their qualifications;
 - iii. The certified primary operator in responsible charge and any other individual(s) directly responsible for achieving effective and reliable routine operations; and

- iv. A list of all subcontracted services such as engineering, legal and accounting.

(c) A description of the financial capabilities of the entity that includes:

- i. A summary of past income and expenses;
- ii. A five-year balanced operational budget;
- iii. A twenty-year projected operational budget in which revenues meet or exceed expenses;
- iv. A twenty-year capital improvements plan;
- v. An explanation of the sources of revenue and the method that will be implemented to insure collection of the revenue necessary to maintain cash flow stability;
- vi. An explanation of funding method that will be implemented for maintaining an operating cash reserve;
- vii. An explanation of the funding for the capital improvement program and emergency repairs; ~~and~~
- viii. An explanation of user fees that includes evaluation of affordability and the procedure and frequency for review to ensure adequate revenue; ~~and~~
- ix. ~~A s~~Summary of Utilities and Trade Commission rates and rate setting process, as applicable.

(d) Any other information specifically requested by the lead agency that it may reasonably require to make a decision on ~~issuance of a permit~~eligibility of the entity to apply for a permit.

In the event the lead agency ~~declines~~ to ~~issue~~accept a permit application ~~from~~to a ~~non-public entity~~private utility based on a determination of inadequate technical, managerial or financial capacity, or lack of sufficient information on which to make a determination, the ~~entity~~private utility may establish adequate capacity by entering into an agreement with a public entity to serve as the primary management entity, or as the ~~third party~~ trust for a private management entity. Said agreement must be binding on both parties to remain in force until the lead agency determines that the ~~entity~~private utility has the technical, managerial, and financial capacity to qualify ~~for issuance or renewal of~~to be eligible to apply for a permit or a renewal of a permit, or until the ~~non-public entity~~private utility enters into an agreement with another public entity.

Comment [DEL7]: Does this become an appealable action?

Comment [CLR8]: Does the 3rd party need to provide the same information as the private utility if it is a privately held organization also?